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# ADS Chapter 309

## Personal Services Contracts with Individuals

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**Functional Series 300 – Acquisition and Assistance**  
**ADS Chapter 309 – Personal Services Contracts with Individuals**  
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***\*This is a new ADS chapter.***

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**309.1 OVERVIEW**

Effective Date: 06/15/2016

This chapter provides USAID's legal authority, policy directives, required procedures, and internal guidance for the award and administration of personal services contracts (PSCs). Throughout the chapter, the term "PSC" is used to refer to the contract award (see [FAR 37.104](#)). "USPSC", "CCN or TCN PSC", or "contractor" refer to the individual engaged to provide services under a PSC.

This chapter applies to all PSCs awarded directly by USAID to individuals who are U.S. citizens, U.S. resident aliens, Cooperating Country Nationals (CCNs), or Third Country Nationals (TCNs). USAID PSCs for performance abroad are executed under the authority of Section 636(a)(3) of the [Foreign Assistance Act of 1961 \(FAA\)](#), as amended. PSCs for performance within the United States are awarded based on specific appropriations and other specific authorities approved by Congress.

**309.2 PRIMARY RESPONSIBILITIES**

Effective Date: 06/15/2016

a. The **Bureau for Management, Assistant Administrator (AA/M)** is responsible for:

- (1) Approving exceptions to the limitations on authorities that may be delegated to PSCs pursuant to [AIDAR Appendix D and J](#); and
- (2) Performing the functions of the Suspending and Debaring Official (SDO), as described in [Federal Acquisition Regulation \(FAR\) 9.4](#) and [AIDAR 709.4](#), or designating the function as described in [ADS 103, Delegations of Authority](#).

b. The **Bureau for Management, Office of Acquisition & Assistance (M/OAA)** is responsible for:

- (1) Developing, issuing, and maintaining the Agency's acquisition regulations, policies, procedures, and standards, which govern personal services contracts, in accordance with established Agency delegations and requirements; and
- (2) Evaluating the Agency's procurement system; providing recommendations to the Chief Acquisition Officer regarding the appointment and termination of Contracting Officer (CO) authorities stated in the [FAR 1.3](#) and [1.6](#) and [AIDAR 701.3 and 701.6](#); and providing technical support to COs (including warranted Executive Officers (EXOs)).

c. The **Director, Bureau for Management, Office of Acquisition & Assistance**, who also serves as the Chief Acquisition Officer, Senior Procurement Executive (SPE), and Head of the Agency for authorities contained in the FAR, is responsible for:

- (1) Approving and issuing Procurement Executive Bulletins (PEBs) that provide general guidance, best practices, reminders, and responses to frequently asked questions (FAQs);
  - (2) Approving and issuing [Acquisition & Assistance Policy Directives \(AAPDs\)](#), which provide interim implementation or advance notification of A&A regulations, policies, procedures and related information;
  - (3) Approving final negotiated salaries in excess of the USAID Contractor Salary Threshold (CST); and
  - (4) Exercising, in person or by delegation, authorities stated in [FAR 1.3](#) and [1.6](#) and [AIDAR 701.3 and 701.6](#), including selecting and appointing COs and terminating their appointments.
- d. The **Head of the Contracting Activity (HCA)** as defined in [AIDAR 702.170-1](#) and [701.601\(b\)](#) is responsible for:
- (1) Approving deviations from the FAR or AIDAR in accordance with [AIDAR 701.4](#), and
  - (2) Resolving appeals of USPSC position level approvals made by the CO (see [309.3.2.2](#)).
- e. **Bureau Assistant Administrators (AAs) or Heads of Independent Offices**, who report directly to the Administrator, are responsible:
- (1) For USPSCs executed at USAID/Washington (USAID/W):
    - Approving the CO's final negotiated salary determination if the salary is above the GS-15 level and below the CST (see [309.3.2.9](#)); and
    - Providing clearance for the CO's final salary determination above the CST prior to submitting to the Director. M/OAA for approval (see [309.3.2.9](#)).
  - (2) For CCN and TCN PSCs: approving compensation (salary and benefits) exceeding the prevailing compensation paid to personnel performing comparable work in the cooperating country in accordance with [AIDAR Appendix J, sec. 4\(c\)\(2\)\(i\)](#) (see [309.3.3.2](#) and [309.3.3.3](#)).
- f. The **Mission Director (MD)**, who also serves as the overseas HCA for the Mission they are serving, is responsible:
- (1) For USPSCs:

- Authorizing a CO to substitute payment of specific overseas allowances with per diem (see **309.3.2.3**);
- Approving the CO's final negotiated salary determination, if the salary is above the GS-15 level and below the CST (see **309.3.2.9**); and
- Providing clearance for the CO's final salary determination above the CST prior to submitting to the Director, M/OAA for approval (see **309.3.2.9**).

**(2)** For CCN and TCN PSCs: approving compensation (salary and benefits) exceeding the prevailing compensation paid to personnel performing comparable work in the cooperating country in accordance with [AIDAR Appendix J, sec. 4\(c\)\(2\)\(i\)](#) (see **309.3.3.2** and **309.3.3.3**).

**g.** The **Office of Human Capital and Talent Management (HCTM)** is responsible for approving the recruitment or extension of USPSC and TCNPSC positions that meet specific criteria. The Human Capital Services Center, Classification Division (HCSC/C) can help COs understand the GS-scale for position level determination purposes (see **309.3.2.2** and **309.3.3.2**).

**h.** **Contracting Officers (COs)**, including warranted EXOs, are responsible for negotiating, awarding, administering, and terminating USAID PSCs within their warrant appointment authority, and in accordance with policy directives and required procedures. COs monitor the contract for compliance with policy and regulatory requirements, execute contract modifications as necessary, and provide relevant materials, guidance, and advice to PSCs' supervisors. The term "CO" in this ADS chapter includes warranted EXOs who are authorized to solicit, award, and administer personal services contracts. Overseas HCAs also have the authority to sign PSC awards in accordance with [AIDAR 701.601](#).

**i.** The **Requestor**, on behalf of the requesting office, is responsible for preparing the PSC requisition, including the Position Description, proposing the Position Level, Position Budget, and other related supporting documents.

**j.** The **PSC's Supervisor** (also known as "Technical Officer" in [AIDAR Appendices D and J](#)), designated by the requesting office, is responsible for managerial oversight, monitoring compliance with the PSC limitations in AIDAR Appendices D and J, and administering, evaluating, and documenting the contractor's performance. Contracting Officer's Representatives (CORs) are not applicable to USAID PSCs.

### **309.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES**

#### **309.3.1 General PSC Regulations, Policies and Procedures** Effective Date: 06/15/2016

Regulations, policies, and procedures governing solicitation, award, and administration of all types of PSCs are found in the [FAR](#) and [AIDAR](#), including [AIDAR Appendix D](#) and [Appendix J](#). Additional Agency policies are contained in this ADS chapter and in AAPDs.

#### **a. Applicability of Other Regulations**

- (1) Policies in the [U.S. Department of State, Foreign Affairs Manual \(FAM\)](#) are applicable only to the extent that they are specifically incorporated into USAID regulations and policies (see [ADS 309mah, Application of the FAM under Federal and USAID Regulations and Policies on PSCs](#)).
- (2) Several PSC fringe benefits are not controlled or administered by USAID. The applicability of certain benefits depends on the type of PSC, the conditions at the relevant overseas Mission, and the agency responsible for administering such benefits. Personal services contractors may not be entitled to all benefits afforded to USAID direct-hire (USDH) employees. Some benefits where applicability may vary include:
  - Employee association and commissary privileges under [6 FAM, Employee Associations](#);
  - Pouch service under [14 FAM 700, Diplomatic Pouch and Mail Services](#);
  - Health Unit privileges under [16 FAM, Medical](#);
  - Army Post Office (APO) privileges under the regulations of the Department of Defense Military Postal Service Agency; and
  - Diplomatic immunities under [2 FAM 222, Employees of Diplomatic Missions](#).
- (3) According to a ruling by the Department of Labor in its Directive entitled, “Unemployment Insurance Program Letter No. 41-99” dated Aug. 3, 1999, personal services contractors are ineligible for the Unemployment Compensation for Federal Employees (UCFE) program.

#### **b. Acquisition Planning**

- (1) A description of anticipated staffing requirements over the life of programs should be included in the Country Development Cooperation Strategy (CDCS) or other Mission strategy statement (see [ADS 201, Program Cycle Operational Policy](#)).
- (2) Advanced planning is required for Agency A&A awards (see [FAR 7.1](#), [ADS 300.1](#), and [ADS 201](#)).

- (3) Operating Units (OUs) must develop an A&A Plan in consultation with their responsible CO (see [ADS 300.3](#)).
- (4) If the Requestor and CO determine that more than one type of PSC may be eligible to apply under a single PSC solicitation, the requirements of each section of this chapter, specifically **309.3.2** and **309.3.3**, must be addressed for each potentially eligible type of PSC.
- (5) The Requestor and CO must establish the market value of all PSC positions using the position level and market value determination processes described in this ADS chapter and those applicable to the location/post of duty of the position. USAID establishes the market rate for all USPSC positions executed under [AIDAR Appendix D](#) based on the GS-equivalent scale; and CCN and TCN PSCs under [AIDAR Appendix J](#) based on the local compensation plan (LCP).

### c. Funding

USAID may finance U.S., CCN, and TCN PSCs with either program or operating expense (OE) funds as part of the Agency's programming of foreign assistance. The CO must ensure PSC contract funds are properly obligated in accordance with [ADS 621](#).

- (1) Under the authority of [Section 635\(h\) of the FAA](#), program funds may be obligated for periods of up to five years where necessary and appropriate to the accomplishment of the tasks involved (see USAID's specific funding policies in [ADS 602, Forward Funding of Program Funds](#)).
- (2) OE funds may be obligated in accordance with USAID's specific funding policies in [ADS 603, Forward Funding, Non-Program Funds](#).

### d. Limitations on Personal Services Contracts

#### (1) Five Year Maximum Period of Performance

Conforming to [FAR Part 17](#), the CO must not award PSCs with a period of performance longer than five years. At the end of a five-year cumulative contract period, including any extensions, the CO must close out the current contract. If USAID requires a PSC for the same services at the same position level and market value for another period not to exceed the five-year limitation, the CO must execute a new award following the appropriate competitive procedures in the [FAR](#) and [AIDAR](#). Additionally for any extension, regardless of whether it is done by modification or a new award of a USPSC or TCNPSC award, the Requestor must comply with HCTM prior approval requirements as necessary under **309.3.2.2** and **309.3.3.2**.

#### (2) Statement of Duties



Statutes and regulations regarding PSCs do not allow for undefined tasks, such as “accretion of duties”, “other duties as assigned” or other similar statements of undefined duties. The CO must ensure PSC awards include position descriptions that indicate the work to be performed by the individual, and that reflect the position level and salary commensurate with the position description.

### **(3) Modifications**

- (a)** The CO must not modify a PSC award when a proposed action triggers competition requirements. Competition is required for modifications of existing contracts if there is a cardinal change to the contract, such as an increase to the total estimated amount of the award, a change to the Statement of Duties, an extension of the period of performance, or a change to salary, benefits or allowances outside the terms and conditions of the current contract. This does not include annual performance-based and pay comparability salary increases, or other administrative changes.
- (b)** If cardinal changes are needed, the market value for the position must be re-established and re-competed in accordance with this ADS chapter, to ensure that the “new” requirement is appropriately approved and competition is maximized. If the new requirement is not open to competition, the CO must request approval of a Justification and Approval (J&A) in accordance with [FAR Part 6](#) and [AIDAR 706](#) (see **309.3.2.5** and **309.3.3.5**).

### **(4) Prohibited Costs**

- (a)** Subcontracts. PSCs are prohibited from subcontracting or procuring any portion of their work. As such, funds for subcontracts are prohibited in PSC budgets and resulting contracts. USAID will provide support services, equipment, and supplies (e.g. computers, furniture, paper, pens) to PSCs on the same basis afforded to USDH employees.
- (b)** “Miscellaneous” or “Contingencies.” Undefined costs including miscellaneous or contingency line items are prohibited in PSC budgets and resulting contracts in accordance with [FAR 31.205-7](#).

## **e. Security**

### **(1) Pre-Award Requirement**

The CO must not contract for personal services with any individual until a determination has been made by USAID’s Office of Security (SEC) for USPSCs in accordance with **309.3.2.10** or by the Regional Security Officer (RSO) at overseas posts for CCN and TCN PSCs in accordance with **309.3.3.10**.

**(2) National Security Information Program**

USPSCs are subject to the requirements for handling security information in [ADS 568, National Security Information Program](#). CCN and TCN PSCs are subject to the limitation against performing services which involve security classified material in accordance with [AIDAR Appendix J, section 4\(b\)](#).

**f. Prohibited Sources and Contractor Responsibility Determination****(1) Prohibition on Transactions with Individuals Associated with Terrorism**

Presidential [Executive Order \(EO\) 13224](#) and U.S. law prohibit transactions with, and the provision of resources and support to, individuals associated with terrorism. In addition, [FAR 25.701](#) also prohibits such transactions based on EOs and the Office of Foreign Assets Control (OFAC) regulation. Accordingly, the CO must ensure a selected PSC is not on the OFAC list of entities and individuals subject to economic sanctions (see **309.3.2.10** and **309.3.3.10** regarding pre-award documentation requirements).

**(2) Excluded Parties in the [System for Award Management](#) (SAM, formerly Central Contractor Registration (CCR))**

In accordance with [FAR 9.105](#), the CO must ensure a prospective PSC is not debarred or suspended from receiving a U.S. Government contract (see **309.3.2.10** and **309.3.3.10** regarding pre-award documentation requirements).

**g. File Documentation and the Agency Secure Image and Storage Tracking (ASIST) System**

ASIST is USAID's official electronic repository for all A&A award documentation. The CO and negotiators must use ASIST to file and distribute all PSCs and related documentation, from pre-solicitation through close-out. The ASIST system is only accessible by A&A staff who must adhere to USAID's Privacy Program regarding personally identifiable information (PII) in accordance with [ADS 508](#). The requirements and procedures for filing and distributing PSC award documents, including maintaining older awards in paper hard copies, are available on the internal [ASIST Homepage](#).

**h. Contractor Performance Assessment Reporting System (CPARS)**

In accordance with [AIDAR 742.15](#), PSCs are not subject to performance assessment reporting procedures contained in the CPARS. However, in accordance with [AIDAR Appendix D](#), and the application of an LCP under [Appendix J](#), annual performance evaluations must be completed by the supervisor and provided to the CO for the contract file (see PSC salary increase policies in **309.3.2.3** and **309.3.3.3**).

**i. Closeout**

The CO must close out PSCs in accordance with [FAR 4.804](#) and [ADS 302sat, Guidance on Closeout Procedures for A&A Awards](#). The CO must also follow separation and exit clearance policies as applicable to PSCs under [ADS 451, Separations and Exit Clearance](#).

**j. Audits**

PSCs are subject to audit requirements under [AIDAR Appendix D, section 8](#).

**k. Debt Collection**

The Federal Claims Collection Act of 1966 and the Debt Collection Improvement Act of 1996 (DCIA) require agencies to comply with standard, government-wide debt collection procedures. The CO is responsible for determining the principal amount of most debts owed by contractors. For the process for recovering debt, see [ADS 625, Accounts Receivable and Debt Collection](#). Additional guidance can be found in [ADS 302sav, Contracting Officer's Role in Debt Collection](#).

**l. Deviations**

The CO must follow the procedures in [AIDAR 701.4](#) when requesting a deviation from the AIDAR or the policy directives and required procedures in this ADS chapter. The CO must submit the request for a deviation, including any additional supporting documents, to M/OAA/P for comment by email to [pscmailbox@usaid.gov](mailto:pscmailbox@usaid.gov).

**309.3.2 U.S. Citizen and U.S. Resident Alien Personal Services Contracts**

Effective Date: 06/15/2016

This section applies to all personal services contracts with U.S. citizens or U.S. resident aliens for services within or outside the U.S., as authorized under [Section 636\(a\)\(3\) of the FAA, as amended](#), and other specific appropriations and authorities. Throughout this chapter, the term “USPSC” is used for PSCs with both U.S. citizens and U.S. resident aliens.

**309.3.2.1 Preparing the Position Description**

Effective Date: 06/15/2016

The Requestor must follow the [Position Description Instructions for USPSCs](#), which consists of the Statement of Duties (SoD), Minimum Qualifications, Evaluation and Selection Factors, and additional related documents.

**309.3.2.2 Establishing the Position Level and Market Value**

Effective Date: 06/15/2016

In accordance with [AIDAR Appendix D, section 4\(e\)](#), USAID uses position benchmarks to determine the level of the position, and has adopted the U.S. Office of Personnel Management (OPM) General Schedule (GS) scale as the standard to determine the GS-equivalent market value for the position.

#### **a. Position Level Analysis**

The Requestor, in consultation with the CO or designee as needed, must prepare a memorandum to propose a GS-equivalent grade for the CO's approval (see below). The memo must include an "approval/disapproval" signature block for the CO, and describe the requestor's position level benchmark analysis and GS-equivalent grade based on the following requirements.

- (1) To determine the USPSC position level, the Requestor must assess the work to be performed and compare the Position Description to the benchmarks and characteristics provided in [ADS 309mag, Position Level Benchmarks for USPSCs](#) to determine the appropriate GS-equivalent grade for the position. The Requestor must ensure the Position Description addresses each of the position level benchmark(s) as appropriate for the corresponding GS-equivalent grade.
- (2) When determining the position level and corresponding GS-equivalent grade, the Requestor must adhere to the following requirements:
  - If uncertain of a choice between two grades for a particular characteristic, select the lower two grade for that characteristic.
  - In the event a position meets characteristics across multiple grades, the recommended position level must be at the GS-equivalent grade in which the position meets the highest number of benchmarks.
  - If an equal number of characteristics apply across multiple grades, the lowest of the GS-equivalent grade must be selected as the position level.
  - GS-13 through GS-15 Equivalent Grades. Requestors must provide substantial justification for determining PSC position levels at the GS-13, 14, or 15 grade levels. Requestors must consider that positions at these levels typically include responsibilities critical to Agency operations and management, often considered inherently governmental in nature. USAID USPSCs may perform certain inherently governmental functions subject to the limitations in [AIDAR Appendix D, sec. 4\(b\)](#). The Requestor must review work requirements for positions proposed at the GS-13, 14, or 15 levels for possible assignment to USDH employees and must ensure that the Position Description does not include duties that are contained in [AIDAR Appendix D, sec. 4\(b\)](#), unless a specific exception has been obtained, as required.

## **b. Contracting Officer Approval**

The CO is responsible for making the final determination of whether the Requestor's position level adequately justifies the market value and proposed GS-grade salary range for the position. The CO may require the Requestor to provide further justification or data to support the proposed position level.

**(1)** Based on the Requestor's analysis, the CO must also assess the Position Description against the position level benchmark characteristics before establishing the position level and market value as follows:

- If the CO agrees with the position level and the Requestor's recommended GS-equivalent grade, the CO may approve and sign the Requestor's memo to establish the final approval of the GS-equivalent grade and salary range. In establishing the GS-equivalent grade, the CO must base the salary range on the location/post of duty of the position. If the position is located in the U.S., the salary range must include locality pay for the appropriate area in the U.S. based on the place of performance. If the position is located overseas, the salary range must be set at the GS-equivalent base range without locality pay.
- If the CO disagrees with the position level and the Requestor's recommended GS-equivalent grade, the CO must review the position level, in consultation with the Requestor for any necessary information, and amend the proposed position level accordingly before approving the final and salary range.
- HCTM/HCSC/C may be available to assist the CO in determining the appropriate position level.

**(2)** Appeal of CO Position Level Approval

- If the Requestor disagrees with the CO's approved position level, the requesting office may appeal the CO's decision to the HCA as indicated in **309.2.d**. In the event the Requestor is the HCA, the appeal must be submitted to the Director, M/OAA.
- The appeal must be initiated by the Requestor's supervisor or the Development Objective (DO) team leader, within five workdays of the CO's final determination and approval. The appeal must be submitted in writing to the HCA through the CO, and must contain a detailed explanation of the basis for the appeal.
- The CO must submit the appeal to the HCA, along with any additional information regarding the position level determination for the HCA's consideration.

- After review of the appeal, the HCA must provide a written determination of the appropriate position level. The HCA's determination is final and the CO must include it in the contract file and document the HCA's decision in the contract negotiation memorandum.

**c. Office of Human Capital and Talent Management (HCTM) Approval**

**(1) HCTM Prior Approval**

- (a)** Requestors must obtain HCTM approval before the recruitment or extension of USPSC positions that meet all the following criteria:
- i. Recruited from outside the cooperating country;
  - ii. Salary level at GS-13 through GS-15;
  - iii. An anticipated contract duration of one year or more, including options for renewal that would result in a contract duration of one or more years;
  - iv. Full-time positions; and
  - v. Program or OE-funded positions.
- (b)** For USPSC positions that require approval, Requestors must submit the following information by email to the Office of Human Capital and Talent Management, Overseas Human Capital Initiatives (HCTM/OHCI) at **HCTMPSCrequest@usaid.gov**:
- i. The position title and GS equivalent grade;
  - ii. The approximate contract performance period;
  - iii. Backstop equivalent of the proposed position;
  - iv. An explanation of whether an approved [NSDD-38](#) is required for the position;
  - v. A brief Statement of Duties (SoD), outlining the required skills, responsibilities, and language (if other than English is required). Missions do not need to send copies of the full solicitation/advertisement when requesting HCTM approval;
  - vi. An explanation of why the position is not suitable for an FSO; and

- vii.** Approval from the Regional Bureau Administrative Management Staff (AMS), which can be indicated by copying the AMS on the email.

If the Requestor fails to include all of the above information with the request, HCTM will return it to the Requestor, which may result in delays in approving or disapproving the request. In instances where a USPSC is required with less than eight months lead time, the request for approval must include an explanation.

## **(2) HCTM Prior Notice**

**(a)** Requestors are not required to obtain HCTM approval before the recruitment or extension of USPSC positions under any of the following conditions:

- i.** Local/Resident-hire positions;
- ii.** USAID/W positions other than those already allocated to the requesting office by HCTM;
- iii.** Positions located in a Critical Priority Country (CPC);
- iv.** Positions located in a Priority Country (as indicated in the most recent Foreign Service Assignment System (FSAS) Bidding Instructions);
- v.** Positions located in Non-Presence Countries (NPCs);
- vi.** Development Outreach and Communication Specialist (DOCS) positions;
- vii.** Coordinator positions for any new Foreign Service Officer hiring programs (e.g. C3; DLI);
- viii.** Office of Foreign Disaster Assistance (DCHA/OFDA) positions;
- ix.** Office of Transition Initiatives (DCHA/OTI) positions;
- x.** President's Emergency Plan for AIDS Relief (PEPFAR) Coordinator and Deputy Coordinator positions;
- xi.** Presidential Malaria Initiative (PMI) positions; and
- xii.** All Administrative/Secretarial positions.

- (b) Although HCTM approval is not required, Requestors must send an email to [HCTMPSCrequest@usaid.gov](mailto:HCTMPSCrequest@usaid.gov) to notify HCTM/OHCI about the requesting office's intention to hire/extend a USPSC. The email must include the specific condition(s) that apply from this section, the approximate contract performance period, and any other information HCTM/OHCI requests.

To avoid delays in filling positions, Requestors must review projected openings or extensions at intervals consistent with validation of Foreign Service (FS) openings, since replacement FS positions will be advertised through the FSAS.

### **309.3.2.3 Determining Withholdings, Benefits and Other Facets of Compensation**

Effective Date: 06/15/2016

- a. In order to prepare and complete the Position Budget, in addition to an estimated salary based on the position level, the Requestor must also estimate benefits and any other compensation costs. The Requestor must work with the CO to determine the clauses, terms and conditions regarding PSC benefits and withholdings that may be relevant to the specific PSC position (see **309.3.2.4** and **309.3.2.11**).

The CO is not authorized to make any changes or provide any benefits to USPSCs other than those in [AIDAR Appendix D, section 4](#), without an approved deviation in accordance with [AIDAR 701.4](#). USPSCs may receive a "Consumables Allowance" if authorized for the specific Mission per [ADS 523, Foreign Service Assignment Travel](#).

- b. Overseas (non-resident hire) and Washington-Based USPSCs

[AIDAR Appendix D, sections 4\(c\) and 12](#) contract clauses include USAID's benefits, allowances, differentials, and withholding policies for non-Resident Hire USPSCs or Washington-based USPSCs. Washington-based USPSCs are not eligible for benefits and allowances that only apply overseas.

- c. Resident Hire USPSCs

[AIDAR Appendix D, sections 4\(d\) and 12 contract clause 22](#) states that Resident Hire USPSCs are not eligible for any fringe benefits, differentials, or allowances; and are only eligible for contributions for FICA, health insurance, and life insurance.

- d. The table below lists USPSC withholdings, major benefits, and other facets of compensation from the [AIDAR Appendix D, sections 4, Policy, and 12, General Provisions \(GPs\)](#), (that will be renamed "contract clauses (DCCs)" pending AIDAR revisions). The table also includes supplemental information and other Agency policies and procedures as referenced. In the event of a conflict between this ADS chapter and the AIDAR, the AIDAR will govern as incorporated into the contract.



Other benefits are provided as a matter of USAID policy under the ADS and other Agency directives.

DESCRIPTION	AIDAR Appx. D §	DCC	Other Policy
<b>Withholdings</b>			
For withholding of U.S. Federal and State income and Federal Insurance Contributions Act (FICA) taxes, the CO must direct USPSCs to submit their withholding forms via email to M/CFO/CMP at <a href="mailto:uspsc@usaid.gov">uspsc@usaid.gov</a> .	4(c)(1), 12	7	
<b>Fringe Benefits and Other Facets of Compensation</b>			
USAID provides FICA contributions (employer portion for purposes of the IRS Code)	4(c)(2), 12	7	
Insurance - Health & Life: <ul style="list-style-type: none"> <li>- Health insurance provider information is available at the State Department Web site <a href="http://travel.state.gov">http://travel.state.gov</a>.</li> <li>- The USAID maximum annual health and life insurance contribution percentages are found in DCC 9, and must not exceed the current annual dollar amounts below:               <ul style="list-style-type: none"> <li>• Health Insurance:                   <ul style="list-style-type: none"> <li>○ For Contractor Only: not to exceed \$7,266.</li> <li>○ For Contractor with Family: not to exceed \$20,339.</li> </ul> </li> <li>• Life Insurance: \$500</li> </ul> </li> <li>- See DCC 28 regarding reimbursements to USAID for insurance payments made to the PSC.</li> <li>- <b>Ineligibility.</b> A USPSC who is a spouse or same-sex domestic partner of a current or retired U.S. Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's or same-sex domestic partner's government health or life insurance policy is ineligible for these contributions.</li> </ul>	4(c)(2), 12	9, 28	
Insurance - Worker's Compensation: USPSCs are eligible to receive benefits for injury, disability, or death under the Federal Employees' Compensation Act (FECA) because the law is	4(c)(2), 12	9	<a href="#"><u>ADS 442</u></a>

DESCRIPTION	AIDAR Appx. D §	DCC	Other Policy
administered by the Department of Labor, not OPM.			
<p>Insurance: Medical Evacuation (Medevac):</p> <ul style="list-style-type: none"> <li>- The cost of Medevac insurance is a reimbursable expense for USPSCs per DCC 25.</li> <li>- Medevac insurance provider information is available at the State Department Web site: <a href="http://travel.state.gov">http://travel.state.gov</a>.</li> <li>- See also DCCs: <ul style="list-style-type: none"> <li>• <b>10</b> regarding emergency and irregular travel, and</li> <li>• <b>28</b> regarding medical expense payment responsibility.</li> </ul> </li> </ul>	12	10, 25, 28	
<p>Insurance - Professional Liability:</p> <p>Pursuant to <a href="#">ADS 537</a>, USPSCs may be eligible for reimbursement of professional liability insurance, if applicable.</p>	--	--	<a href="#">ADS 537</a>
<p>Allowances and Differentials:</p> <p>Only USPSCs recruited from outside the cooperating country for services overseas are entitled to differentials and allowances.</p>	4(c)(2), 12	6	
<p>Physical Exams and Health Unit:</p> <ul style="list-style-type: none"> <li>- Prior to providing clearance for an overseas assignment of 30 days or more, STATE/MED may require tests in addition to those included in the basic exam. Such additional tests will be reimbursed at 100% of the cost to the USPSC, minus any costs paid by the USPSCs, or their spouse's, insurance company. For such pre-contract expenses, the CO must ensure sufficient funds are included in the budget and are properly obligated.</li> <li>- See <a href="#">ADS 309mac, Medical Clearance Processes for USPSCs and Excepted TCNPSCs</a></li> </ul>	4(c)(2), 12	3	
<p>Leave and Holidays (Vacation/Annual; Sick; Home; FML, etc.)</p> <ul style="list-style-type: none"> <li>- See <a href="#">ADS 480</a> regarding allowable uses of Sick</li> </ul>	4(c)(2), 12	5 Deviation	<a href="#">AAPD 15-02</a>

DESCRIPTION	AIDAR Appx. D §	DCC	Other Policy
Leave that USAID applies to USPSCs.		in <a href="#">AAPD 15-02</a>	<a href="#">ADS 480</a>
Travel and Transportation Expenses (Home Leave; R&R, HHE, POV, UAB, etc.): <ul style="list-style-type: none"> <li>- See DCC 28 for costs associated with emergency and irregular travel.</li> <li>- See <a href="#">ADS 522</a> regarding TDY travel and passports.</li> </ul>	12	10 28	<a href="#">ADS 522</a>
APO and Commissaries	12	13	
Pouch Services/APO/DPO	12	20	
Training	12	23	<a href="#">ADS 458</a>
Retirement and Former Government Employees: <ul style="list-style-type: none"> <li>- In accordance with <a href="#">AIDAR Appendix D</a>, USPSCs may not participate in programs administered by OPM, such as retirement plans.</li> <li>- USPSCs may instead participate in a defined contribution pension plan (see <a href="#">ADS 637, U.S. Personal Services Contractors 401(k) Defined Contribution Pension Plan</a>).</li> </ul>	4(c)(2)	--	<a href="#">ADS 637</a>
Performance–Based Salary Increase: On/about the anniversary date of the PSC’s contract, the PSC’s Supervisor must prepare a written and signed evaluation and rating of the PSC’s performance and submit a copy of the evaluation to the CO. If the PSC is rated satisfactory or better, then the PSC’s Supervisor must inform the cognizant Mission or B/IO payroll office, with “cc” copy to <b>uspsc@usaid.gov</b> for the Bureau for Management, Office of the Chief Financial Officer, Cash Management and Payment Division (M/CFO/CMP) in writing to process a step increase. When the PSC reaches the highest step of the GS-equivalent grade for the position, the salary is “capped” in the same way as a USDH salary.	4(c)(2), 4(g)	--	
Pay Comparability Adjustment	4(c)(2) 4(h), 12	4	
Sunday Pay: <ul style="list-style-type: none"> <li>- Each Mission and B/IO has the option to</li> </ul>	--	--	<b>309.3. 2.3</b>

DESCRIPTION	AIDAR Appx. D §	DCC	Other Policy
<p>authorize Sunday Pay for USPSCs based on the following two stipulations:</p> <ul style="list-style-type: none"> <li>- The decision whether or not to authorize Sunday Pay must be administered consistently throughout the Mission; and</li> <li>- If Sunday pay is authorized, it must be paid under the same terms and conditions as it applies to non-commissioned FS direct-hires who receive Sunday Pay.</li> <li>- Retroactive compensation for USPSCs who were not authorized to receive Sunday Pay during initial negotiations of their contracts is not authorized. Sunday Pay is only applicable to new contracts, extensions, renewals, or other modifications where there is consideration to the government.</li> </ul>			
<p>Incentive Awards:</p> <ul style="list-style-type: none"> <li>- See <a href="#">ADS 309mab, Incentive Awards for Personal Services Contracts with Individuals</a>.</li> <li>- The Requestor and CO must not budget for monetary awards because such awards cannot, and must not, be pre-determined or expected under a PSC. See <b>309.3.2.4</b> and <b>309.3.2.12</b> regarding budgeting and tracking monetary awards as a PSC cost.</li> </ul>	4(f) AIDAR Deviation in <a href="#">AAPD 16-03</a>	--	
<p>Compensation Currency:</p> <p>USPSCs must be paid in U.S. dollars unless otherwise specified in Article IV of the contract award document.</p>	--	--	<b>309.3.2.11</b>

#### 309.3.2.4 Position Budget

Effective Date: 06/15/2016

In consultation with the CO, the Requestor must prepare a comprehensive budget of all associated U.S. PSC costs based on the CO-approved market value salary range and appropriate benefits in accordance with **309.3.2.2** and **309.3.2.3**. Within the comprehensive budget, the Requestor must include the sub-set of line items that will become the contract budget as described below.

- a. Comprehensive Budget.** The comprehensive budget is the Requestor's estimate of all costs associated with the individual PSC action. This budget must include amounts paid directly to the USPSC such as salary and benefits. It must also include other costs not paid directly to the USPSC (e.g. USAID-paid FICA, travel and transportation costs, and other administrative support costs such as housing/lease agreements, International Cooperative Administrative Support Services (ICASS) costs).
- b. Contract Budget.** The Requestor must prepare a proposed contract budget, which is a sub-set of the comprehensive budget. In the contract budget, the Requestor must list only those line items paid directly to the USPSC or the IRS. The Requestor's proposed contract budget may include the following illustrative sub-set of line items. M/CFO provides the Expended Objects Class Codes (EOCC) categories in [ADS 621, Obligations](#):

Basic Category	Illustrative Line Items
Compensation:	
	Base Pay
	Overtime
	Holiday Pay
	Sunday Pay Differential
	Night Work Differential
	Danger Pay Allowance
	Post Differential
	Other Premium Compensation
	Other Allowances, as applicable under AIDAR Appendix D
Other Reimbursable Costs:	
	Health Insurance
	Life Insurance
	Medical Evacuation Insurance
	Professional Liability Insurance (if applicable)
Reimbursement of Pre-contract Costs:	
	Medical Examination Fees
	Visas and Miscellaneous Travel Costs
Employer Contributions (paid to IRS on PSC's behalf)	
	FICA (Social Security; Medicare)

- c. Salary.** This line must reflect an estimated salary based on the approved market value and the GS-equivalent grade established under **309.3.2.2**.
- d. Monetary Awards.** The Requestor and CO must not include monetary awards as a line item in any budget for a position in accordance with **309.3.2.3**. Monetary awards must instead be tracked by contract modification as indicated in **309.3.2.12**.

- e. Subcontracts, “Miscellaneous”, or “Contingency” Costs. All such costs and line items are prohibited (see **309.3.1(d)**).

### **309.3.2.5 Publicizing and Competition Requirements**

Effective Date: 06/15/2016

- a. For guidance on using the applicable regulations, see [ADS 309saa, Guide to PSC Publicizing and Competition Regulations](#) and [ADS 309mad, Class Deviation and Class J&A for Other Than Full and Open Competition](#).
- b. Publicizing. The CO must comply with [FAR Part 5](#), [AIDAR Appendix D, sec. 5\(b\)](#), and other FAR and AIDAR requirements referenced therein. Only after the CO has publicized the solicitation in accordance with FAR Part 5 and AIDAR Appendix D, the requesting office may place paid advertisements in other media such as newspapers and periodicals, and use other publication methods in consultation with the CO.
- c. Competition. The CO must comply with [FAR Part 6](#), [AIDAR Appendix D, sec. 5\(c\)](#), and other FAR and AIDAR requirements referenced therein.

### **309.3.2.6 Position Requisition**

Effective Date: 06/15/2016

- a. All USPSC actions, from Requisition to Solicitation and Award, must be processed through USAID’s Global Acquisition and Assistance System (GLAAS). To initiate the solicitation process, the Requestor must submit a Requisition (REQ) to the CO in accordance with the GLAAS business processes (see the [M/OAA Web site](#)).
- b. Funding Line Items. When creating the REQ, the Requestor must ensure the estimated contract line item number (“CLIN”) and/or award total estimated cost (“TEC”) amounts entered in the REQ correspond to the amounts in the contract budget. The Requestor must use a “Commitment Amount” based on available funding at the time the REQ is created, and comply with the forward funding requirements in [ADS 621](#). This amount must be within the TEC of the contract budget. Although the contract budget is the basis for funding the contract line items in the REQ, the Requestor must submit the comprehensive budget, including the sub-set contract budget, with the REQ Supporting Documents as indicated below (see **309.3.2.4.a** and **b**, and forward funding requirements in [ADS 602](#) and [ADS 603](#)).
- c. Supporting Documents. The Requestor must submit the following under the “Supporting Documents” function of the GLAAS REQ, only for use by the Requestor and the CO:

<b>REQUISITION SUPPORTING DOCUMENTS</b>	<b>ADS 309.3.2.</b>
• Position Description	<b>1</b>

REQUISITION SUPPORTING DOCUMENTS		ADS 309.3.2.
1. Statement of Duties		
2. Minimum Qualifications		
3. Evaluation Factors		
• Position Level and Market Value with all approvals		2
• HCTM Approval (If applicable)		2
• Comprehensive Budget for the Position		2, 3, 4
• J&A Memo for any exception to competition		5
• Other Special Requirements of the position		

- d. The CO must enter the GLAAS milestone plan start date and initiate the Procurement Action Lead Time (PALT) only after receiving and accepting a complete and approved REQ appropriate for the specific PSC action, in accordance with GLAAS business processes.

### 309.3.2.7 Preparing the Solicitation

Effective Date: 06/15/2016

- a. The CO must adhere to PALT policies under [ADS 300](#).
- b. The CO must prepare the solicitation in GLAAS using the guidance and format included in the [USPSC Solicitation Template](#). The CO must also follow the [FAR 5.203](#) solicitation response time requirements.
- c. **Required Application Form.** The CO must require that all individuals responding to the solicitation submit the form [AID 302-3](#), Offeror Information for Personal Services Contracts, along with any other required documentation such as resumes or curricula vitae CVs) as stated in the solicitation. The form [AID 302-3](#) is required because it includes the individual's signature and certification that the information contained in the form is complete and accurate. This protects USAID by holding the applicant liable for intentionally misrepresenting their information.
- d. **Competitive Range.** If the CO decides to establish a competitive range of candidates as part of the selection process, the CO must state so in the solicitation, describing how the competitive range will be established and how negotiations will be conducted with qualified candidates.

### 309.3.2.8 Technical Evaluation of Applications

Effective Date: 06/15/2016

#### a. Technical Evaluation

##### (1) Establishing the Technical Evaluation Committee (TEC)

- i. The CO, in consultation with the requesting office, must establish the TEC, including a TEC Chair, who will review and evaluate the



applications. The CO must approve the TEC members and evaluation process in accordance with [FAR 15.303\(b\)\(1\)](#) and follow the same standards and procedures for the composition of TECs as specified in [ADS 302.3.6.1](#).

- ii. Prior to initiating the technical evaluation process, the CO or CO's designee must obtain signed non-disclosure and conflict of interest certifications from all TEC members.

- (2) Evaluation Criteria.** The TEC must evaluate applications based on the criteria stipulated in the solicitation.
- (3) Ranking.** The Requestor must collaborate with the CO to determine the basis for ranking applicants relative to the evaluation criteria.
- (4) Competitive Range.** If the solicitation stated that the CO may establish a competitive range, then the TEC must create a ranking of the most highly rated and technically qualified applicants based on the evaluation criteria, which the CO may use in the source selection process. The CO must determine the cut-off point in the ranking to establish the competitive range.
- (5) Interviews.** The TEC may conduct interviews of the most highly rated applicants before making a selection recommendation to the CO. If the CO established a competitive range and the TEC elected to conduct interviews, the TEC must interview all individuals within the competitive range.
- (6) Reference Checks.** Before a final candidate is selected for the position, the TEC must perform professional reference checks based on the candidate's application or other relevant sources. The CO, in consultation with the TEC, will decide at what stage such reference checks will be conducted.

#### **b. Selection Memorandum**

- (1)** At the end of the evaluation process, the TEC Chair must submit the Selection Memorandum, including all supporting documentation (i.e. notes, applications, score sheets.), to the CO. As the Source Selection Authority, the CO may consider the TEC's evaluation and recommendation in making a source selection decision based on the CO's independent judgment in accordance with [FAR 15.308](#).
- (2)** The Selection Memorandum must:
  - i. Serve as a stand-alone document describing the evaluation process, from solicitation to evaluation, and recommendation of the selected candidate(s).



- ii. Detail the methodology used to review, score, and rank the applications based on the criteria stated in the solicitation.
- iii. If a competitive range was established, the TEC must support and justify selection of the "most highly rated applicants."
- iv. Explain to the CO why the candidate selected by the TEC is recommended for award compared to the other candidates based on the evaluation criteria stated in the solicitation.
- v. Include all TEC members' signatures or other evidence of agreement or clearance.

### **c. Debriefing**

It is USAID policy to conduct debriefings upon request from PSC applicants. The CO must follow the procedures outlined in [FAR 15.5](#), as applicable, when responding to requests for debriefing.

### **309.3.2.9 Award Negotiation**

Effective Date: 06/15/2016

#### **a. General**

Negotiating a personal services contract with an individual is significantly different from negotiating a contract with an organization (see [AIDAR Appendix D section 6](#)).

#### **b. Developing the Negotiation Strategy**

- (1) Before initiating negotiations with the selected candidate, the CO must use the candidate's current earnings history, education, experience, and other qualifications, as certified in the required application form, to determine a fair and reasonable base salary within the range specified in the solicitation.

"Current earnings" are defined as actual earnings for work reasonably related to the position for which the applicant is being considered.

"Base salary" is defined as compensation for services rendered, excluding bonuses, profit-sharing arrangements, commissions, consultant fees, extra or overtime work payments, foreign differential or quarters, cost of living or dependent education and other such allowances.

- (2) No salary history. If the selected candidate does not have a current salary history (e.g., absence from the workforce for many years), or the candidate's salary history does not accurately reflect the current market value (e.g., Peace Corps volunteer), the CO must determine a fair and reasonable base salary to be offered to the selected candidate based on a comparison of the

salary range in the solicitation with the candidate's qualifications, experience, and the extent to which the individual meets the solicitation requirements.

### **c. Salary Negotiations**

The CO must negotiate and award the final salary based on the guidance in this section. The CO may decide how to initiate salary negotiations, whether by email or other correspondence. However, at the completion of any negotiations, the CO must execute a final "offer letter," signed by the CO and the selected candidate, indicating the negotiated salary, proposed start date for work and other relevant information and documentation required to execute the contract (see **309.3.2.10**).

#### **(1) Negotiations within the Solicitation Market Value**

- i. The CO must make an offer, conduct negotiations, and make the award to the selected candidate at a fair and reasonable salary within the solicitation market value, regardless of whether the candidate's salary history is below or above the market value specified in the solicitation.
- ii. If the CO and the selected candidate cannot agree on a salary within the solicitation market value, the CO may begin discussions with the next highly rated candidate based on the TEC's recommendations. If no ranking of candidates was provided in the selection memo, the CO must consult with the TEC to determine the next best technically qualified applicant.
- iii. If the CO is successful in negotiating a base salary and makes an award to one of the qualified candidates, the CO must document in the negotiation memorandum the basis for determining that the final negotiated salary is fair and reasonable (e.g., based on the candidate's salary history and qualifications).

#### **(2) Negotiations above Solicitation Market Value**

- i. In no case will the selected candidate's salary history be the determining factor for negotiating a salary in excess of the advertised market value of the position. However, if the salaries of all the highly rated candidates are above the solicitation market value, and the CO was unsuccessful in negotiating an award within the solicitation market value, then the CO must review the position level determination used for the solicitation and follow these procedures:
  - (a) If the CO determines that the position level was appropriate as solicited, then the CO has two options:

- (1) Issue an amendment to re-open the solicitation and extend the closing date. The CO must specifically provide the amendment to those individuals who submitted applications on or before the original solicitation closing date; or
- (2) Cancel the solicitation and re-solicit for the position by issuing a new solicitation.
- (b) If the CO determines that the position level was not appropriate as solicited, then the CO must cancel the solicitation, require a new REQ from the requesting office, revise the position level, and re-solicit for the position by issuing a new solicitation.

**(3) Negotiations above the GS-15 Equivalent Level and USAID Contractor Salary Threshold (CST)**

After following all the procedures of section **309.3.2.9.c**, if the CO determines that a salary above the GS-15 or the CST is appropriate, then the CO must obtain the following approvals:

- (a) For salaries above the GS-15 equivalent level, and below the CST, the CO must obtain approval from the Mission Director, Assistant Administrator, or Head of an Independent Office who reports directly to the Administrator, following the procedures in [ADS 309maf, Requesting Approval to Negotiate a USPSC above GS-15 and CST](#).
- (b) For salaries above the CST, the CO must obtain approval from the M/OAA Director. Prior to requesting M/OAA Director approval, the CO must obtain concurrence from the Mission Director, Assistant Administrator, or Head of an Independent Office who reports directly to the Administrator, following the procedures in [ADS 309maf, Requesting Approval to Negotiate a USPSC above GS-15 and CST](#). Only the Director, M/OAA is authorized to provide this approval, which cannot be re-delegated.
- (4) **Finalizing the Negotiated Salary**. When the CO and selected candidate have agreed on the base salary amount, GS-grade and step, including any locality pay, if applicable (see **309.3.2.2.b**), the CO must formalize this information in the final offer letter and execute the contract accordingly.

**309.3.2.10 Pre-Award Documentation**

Effective Date: 06/15/2016

**a. General**

The CO must not execute any personal services contract award unless and until the CO obtains all the pre-award forms and clearances necessary for the specific PSC. The CO must ensure the contract file includes all the following information and documentation at a minimum before a personal services contract is executed (see **309.3.1.g** on file documentation guidance in [ASIST](#)).

ITEM	DOCUMENT(S)	ADS 309.3.2.10.a	AIDAR DCC	Other Policy
Offer Letter	Letter	(1)	--	
Security Clearance Request and approval	USAID SEC requirements	(2)	14, 24	<a href="#">ADS 566</a>
Medical Clearances	Travel <30 days – Dr. statement Travel =>30 days - DS-6561; DS-3057; other forms as required by the Mission	(3)	3	<a href="#">ADS 508</a>
Other Requirements	Varies by PSC; HCTM prior approval	(4)	--	
Negotiation Memo with Responsibility Determination	Varies by PSC screenshots of SAM and OFAC searches	(5)	--	

**(1) Offer Letter.** As indicated in **309.3.2.9.c**, the CO must obtain the executed “offer letter” indicating the final negotiated salary, proposed start date for work, and other information and documentation relevant to the impending contract in accordance with this section. An “offer letter” does not constitute a commitment by USAID that an award will be executed. The CO must not execute an award until all required clearances have been obtained. Any precontract costs must be authorized by the CO (see [FAR 31.205-32](#) and **309.3.2.4**).

## **(2) Security Clearance.**

**(a) Security Clearance Request and Approval.** Only U.S. citizens are eligible for security clearance. Non-U.S. citizens and any positions that will not require access to national security information, but are limited to administratively controlled "Sensitive But Unclassified" information will be granted "Facility Access" (see **309.3.1.e**). The CO must follow the required procedures and necessary documentation in [ADS 566, Personnel Security Investigations and Clearances](#) to request the appropriate security determination for the selected candidate. Additional information is available from USAID’s Office of Security (SEC).

**(b) Conditions for Contracting Prior to Receipt of Security Clearance.** The CO must follow the requirements of DCC 24.

**(c) Temporary Clearance or Facilities Access.** The CO must follow the requirements prescribed in [ADS 566](#).

**(3) Medical Clearances and Certifications.**

**(a)** The CO must not execute a contract with a USPSC for performance overseas, or issue travel orders for a U.S.-based USPSC for overseas travel of 30 days or more without first obtaining the proper medical clearance (see [ADS 309mac, Medical Clearance Processes for USPSCs and Excepted TCNPSCs](#)).

**(b)** The CO must provide administrative approval of the PSC's reimbursement voucher request for required exams and immunizations prior to payment by the relevant payment office.

**(4) Other Required Documents.**

**(a)** HCTM, Missions, the host country, and/or requesting offices may require other documentation before award based on the specific PSC position.

**(b)** HCTM Prior Approval. As stated in **309.3.2.2**, if the Requestor was required to obtain HCTM prior approval for a USPSC position, the CO must receive a copy of that approval before award.

**(5) Negotiation Memorandum with Responsibility Determination.** The CO must fully document the procurement action process, including a determination that the contractor is responsible and eligible for award. In accordance with **309.3.1.f**, the CO must search the OFAC list at <http://www.treas.gov/offices/enforcement/ofac/sdn>, and the excluded parties list at [www.sam.gov](http://www.sam.gov), and include screenshots of each in the contract file. Additional guidance is available in [ASIST](#) (see **309.3.1.g**).

**b. System for Award Management (SAM).** In accordance with [FAR 4.1102](#), USPSCs must be registered in SAM prior to award, except for contracts with individuals for performance outside the U.S. and its outlying areas as indicated in [FAR 4.1102\(a\)\(4\)](#) (see **309.3.1.f**).

**309.3.2.11 Contract Award and Documentation**

Effective Date: 06/15/2016

**a.** In accordance with the [AIDAR](#), the CO may award a USPSC provided that the amount of the contract does not exceed their warranted or delegated contracting authority.

**b.** After obtaining all pre-award documentation necessary under **309.3.2.10**, the CO must prepare the award document in GLAAS before executing the contract.

- (1) The CO must prepare the award using the guidance and format included in the [USPSC Award Template](#);
  - (2) Salary payment must be indicated by an hourly rate calculated based on the GS-equivalent grade and step in accordance with [ADS 626, Payroll](#);
  - (3) The contract award budget must only include those line items paid directly to the USPSC or the IRS as indicated in **309.3.2.4**; and
  - (4) The contract must include the appropriate DCCs in accordance with [AIDAR Appendix D](#) and [FAR](#) clauses referenced in the [USPSC Award Template](#), available only internally for USAID staff.
- c. To fully execute the contract, the PSC contract award must be signed by the PSC before it is counter-signed by the CO.
- d. **Additional Post-Award Documentation.** The CO must ensure the contract file includes all the following information and documentation at a minimum after execution of a personal services contract (see **309.3.1.g** on file documentation guidance in [ASIST](#)).

ITEM	DOCUMENT(S)	ADS 309.3.2.11.a	AIDAR DCC	Other Reg/Policy
Insurance - Health, Life, Medevac, Prof. Liability	Insurance certificates	(1)	3, 25	<a href="#">ADS 537</a>
Financial Disclosure	OGE-450; OGE-278	(2)	2	
Income Tax Withholdings	IRS W-4 for Federal; other forms as required	(3)	7	<a href="#">ADS 508</a>
Emergency Locator	Record for file	(4)	21	
Transportation	Travel Authorization	(5)	10	
Training	Varies by PSC	(6)	23	
Announcement of Contract Award	per <a href="#">FAR</a>	(7)	--	<a href="#">FAR 5.3</a>
Award Checklist	see <a href="#">ASIST</a> guidance	(8)	--	

- (1) **Insurance Coverages.** The CO must obtain proof of health, and, if applicable, life, medevac and professional liability insurance and process each as follows:
- (a) For USPSCs performing overseas, the CO must email health and medevac insurance certificates to the relevant Health Unit at post.
  - (b) For all USPSCs, the CO must provide administrative approval for any insurance reimbursement vouchers prior to payment by the relevant payment office.

- (2) Financial Disclosure and Ethics Code.** Certain USPSCs must file either the OGE-450 Confidential, or the OGE-278 public financial disclosure report forms, as required by statute (the [Ethics in Government Act of 1978, 5 USC app. 101 et seq.](#), and [5 CFR 2634](#)). The CO must review each PSC to determine whether filing requirements apply. The CO also is required, in consultation as necessary with their cognizant Resident Legal Officer (RLO) or the Office of General Counsel, Office of Ethics and Administration (GC/EA), to:
- (a)** Review each PSC using legal criteria to determine if a filing requirement applies;
  - (b)** Distribute the correct form on or before the contract start date if the USPSC is required to file a financial disclosure report. CO or filer's questions, if any, can be referred to the cognizant RLO or GC/EA; and
  - (c)** Enter an Ethics Code in the appropriate block of the current GLAAS PSC award Cover Page form: either "N" = files no form; "C" = files the Confidential form; or "P" = files the Public form.
- (3) Income Tax Withholdings.** The CO must obtain an original signed Internal Revenue Service (IRS) Form W-4, "Employee's Withholding Allowance Certificate" from the USPSC, in addition to any other required withholding forms (i.e. state, municipal, or other jurisdiction.) The CO must forward a copy of the signed W-4 and any other required forms to M/CFO/CMP and retain the signed original in the contract file. The CO must adhere to [ADS 508](#) regarding PII.
- (4) Emergency Locator Contact(s).** The CO must obtain emergency contact information in accordance with the DCC 21.
- (5) Transportation of Personal Property.** The EXO office will prepare the travel authorization for the transportation of household effects (HHE), unaccompanied baggage (UAB), or a personally-owned vehicle (POV) in coordination with Bureau for Management, Management Services, Travel and Transportation Division (M/MS/TTD) as necessary.
- (6) Training.** If applicable, forms, certifications, or other documentation may be required before award, in accordance with the DCC 23.
- (7) Announcement of Contract Award.** The CO must comply with the requirements of [FAR 5.3](#).
- (8) Award Checklist.** The CO must prepare a list of required documentation for each specific PSC based on **309.3.2.10**, this section **309.3.2.11(d)**, and ASIST guidance under **309.3.1.g**.



**309.3.2.12 Contract Modifications**

Effective Date: 06/15/2016

- a. Form. The CO must comply with [FAR 43.301](#) regarding the use of [Standard Form 30, Amendment of Solicitation/Modification of Contract \(SF-30\)](#) to execute PSC modifications.
- b. Limitations. The CO may execute a unilateral modification for incremental funding, cost of living adjustments, or other administrative changes (see **309.3.1.d** regarding limitations on PSC modifications).
- c. Monetary Awards. If a monetary award is made in accordance with **309.3.2.3**, this cost must not be funded under the contract. However, the CO must process an administrative modification in GLAAS without any funding obligation to indicate the amount of this compensation expense paid directly to the PSC for cost tracking purposes (see Article III of the [USPSC Award Template](#)).

**309.3.3 Cooperating Country National and Third Country National Personal Services Contracts**

Effective Date: 06/15/2016

**a. Overview**

This section applies to all personal services contracts with Cooperating Country Nationals (CCN PSCs) and Third-Country Nationals (TCN PSCs) as authorized under [Section 636\(a\)\(3\) of the FAA, as amended](#), and other specific appropriations and authorities.

In accordance with [ADS 495, Foreign Service National Personnel Administration](#), the use of CCNPSCs is preferred over the use of TCNPSCs in order to integrate the foreign assistance effort into the community, enhance the skills of the cooperating country's population, and contribute to the local economy. USPSCs are also preferred over TCNPSCs with equivalent qualifications. TCNPSC positions must only be used when:

- Qualified CCNs are not available;
- Limitations on Agency and Mission operations do not allow sufficient time to train CCNs; and
- Program efficiencies and policy objectives can only be achieved using TCNPSCs as a substitute for available, eligible, and qualified U.S. citizens (as defined in [AIDAR Appendix D](#)) and persons from the host country.

In all cases, the establishment of a TCNPSC position must be temporary. The requirement to train CCNs to take over the work, including an estimate of the time



required for that training, must be a part of the position description and a measurable deliverable in the completed contract (see [ADS 495](#) and the [CCN and TCN PSC Solicitation Template](#)).

## **b. Specific Limitations**

- (1) Security. USAID must not contract with or hire a CCN or TCN PSC to perform services involving security classified material.
- (2) Warrant Program. In accordance with [AIDAR 701.6](#), the Director, M/OAA has the authority to appoint CCNPSCs as warranted COs. Questions regarding this program may be directed to M/OAA's Evaluation Division at [FSNWarrants@usaid.gov](mailto:FSNWarrants@usaid.gov). TCNPSCs are not eligible to receive CO warrants under this program.

### **309.3.3.1 Preparing the Position Description**

Effective Date: 06/15/2016

The Requestor must, in consultation with the EXO Office, prepare the position description using the Inter-Agency Classification tool on the same basis as FSN/TCN direct hires in accordance with [ADS 495](#).

### **309.3.3.2 Position Classification and Compensation**

Effective Date: 06/15/2016

#### **a. Position Classification**

- (1) The Requestor, in consultation with the EXO Office, must classify the position using the Inter-Agency Classification tool on the same basis as FSN/TCN direct hires in accordance with [ADS 495](#). The CO must ensure that all CCN and TCN PSC positions are properly classified within the LCP.
- (2) In accordance with [AIDAR Appendix J, section 4\(c\)\(2\)\(ii\)](#), the cognizant Mission Director may approve alternate classification procedures (see [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#)).

#### **b. Compensation**

In accordance with [AIDAR Appendix J, section 4\(c\)\(2\)\(i\) and \(ii\)](#) and [Section 408\(a\)\(1\) of the Foreign Service Act of 1980](#), the local compensation plan (LCP) is the basis for all compensation payments to CCNPSCs and TCNPSCs. The LCP consists of the local salary schedule, which includes salary rates, authorized fringe benefits, and other pertinent facets of compensation.

#### **c. Excepted TCNPSCs with an ACP ONLY - HCTM Approval**

**(1) HCTM Prior Approval.**

- i. Requestors must obtain HCTM approval before the recruitment or extension of TCNPSC positions that meet all the following criteria:
  - Based on [AIDAR Appendix J, section 4\(c\)\(2\)\(ii\)](#) and an approved ACP by the cognizant Mission Director, salary classification at the GS-13 through GS-15 levels;
  - An anticipated contract duration of one year or more, including options for renewal that would result in a contract duration of one or more;
  - Full-time positions; and
  - Program or OE-funded positions.
- ii. For TCNPSC positions that require approval, Requestors or Executive Office staff must submit the following information by email to HCTM/OHCI at **HCTMPSCrequest@usaid.gov**:
  - The position title and GS equivalent grade;
  - The approximate contract performance period;
  - Backstop equivalent of the proposed position;
  - An explanation of whether an approved [NSDD-38](#) is required for the position;
  - A brief Statement of Duties, outlining the required skills, responsibilities, and language (if other than English is required). Missions do not need to send copies of the full solicitation/advertisement when requesting HCTM approval;
  - An explanation of why the position is not suitable for an FSO, a CCNPSC or a USPSC (see [ADS 495](#)); and
  - Approval from the Regional Bureau AMS, which can be indicated by copying the AMS on the email.

If the Mission fails to include all of the above information with the request, HCTM will return it, which may result in delays in approving or disapproving the request. In instances where a TCNPSC is required with less than eight months lead time, the request for approval must include an explanation.

**(2) HCTM Prior Notice**

**(a)** Requestors are not required to obtain HCTM approval before the recruitment or extension of TCNPSC positions under any of the following conditions:

- TCNPSC positions are paid in accordance with [AIDAR Appendix J](#) under a Local Compensation Plan;
- Local/Resident-hire positions;
- Positions located in a Critical Priority Country;
- Positions located in a Priority Country (as indicated in the most recent Foreign Service Assignment System (FSAS) Bidding Instructions);
- Positions located in Non-Presence Countries;
- Development Outreach and Communication Specialist (DOCS) positions;
- Office of Foreign Disaster Assistance (DCHA/OFDA) positions;
- Office of Transition Initiatives (DCHA/OTI) positions;
- President's Emergency Plan for AIDS Relief (PEPFAR) Coordinator and Deputy Coordinator positions;
- Presidential Malaria Initiative (PMI) positions; and
- All Administrative/Secretarial positions.

**(b)** Although HCTM approval is not required, Requestors must send an email to **HCTMPSCrequest@usaid.gov** to notify HCTM/OHCI about the requesting office's intention to hire/extend a TCNPSC. The email must include the specific condition(s) that apply from this section, the approximate contract performance period, and any other information as HCTM/OHCI requests.

To avoid delays in filling positions, Requestors must review projected openings or extensions at intervals consistent with validation of FS openings, since replacement FS positions will be advertised through the FSAS.

### 309.3.3.3 Determining Withholdings, Benefits and Other Facets of Compensation

Effective Date: 06/15/2016

- a. In order to prepare and complete the Position Budget, in addition to an estimated salary based on the position classification, the Requestor must also estimate benefits and any other compensation costs. The Requestor must also work with the CO to anticipate the clauses, terms and conditions regarding PSC benefits and withholdings that may be relevant for the specific PSC position (see **309.3.3.4** and **309.3.3.11**).
- b. In accordance with [AIDAR Appendix J, section 4](#), CCNs and TCN PSCs are not entitled to any fringe benefit, allowance, or differential that is not expressly stated in the Local Compensation Plan (LCP). An approved ACP may also affect benefits that are available for the specific CCN or TCN PSC position (see [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#)).
- c. The table below lists CCN and TCN PSC withholdings, major benefits and other facets of compensation from the [AIDAR Appendix J, sections 4, Policy and 12, General Provisions \(GPs\)](#), (that will be renamed “contract clauses (JCCs)” pending AIDAR revisions). The table also includes supplemental information and other Agency policies and procedures as referenced. In the event of a conflict between this ADS chapter and the AIDAR, the AIDAR will govern as incorporated into the contract. Other benefits are provided as a matter of USAID policy under the ADS and other Agency directives.

<b>DESCRIPTION</b> <i>Applies to CCN &amp; TCN PSCs under AIDAR Appendix J unless otherwise indicated</i>	<b>AIDAR Appx. J §</b>	<b>JCC</b>	<b>Other Policy</b>
<b>Withholdings</b>			
Pursuant to local labor laws	12	7	<b>309.3.2.3.c</b>
<b>Fringe Benefits and Other Facets of Compensation</b>			
Employer Contributions under the LCP:  Although contributions must be included in the CCN and TCN PSC comprehensive and contract budgets for the position, they will not be paid directly to the PSC.	12	7	
Insurance - Health & Life: - <b>Ineligibility.</b> A CCN or TCN PSC who is a spouse or same-sex domestic partner of a current or retired U.S. Civil Service, Foreign Service, or Military Service member and who is covered by their	12	8	<a href="#">ADS 496</a>

<b>DESCRIPTION</b> <i>Applies to CCN &amp; TCN PSCs under  <b>AIDAR Appendix J</b> unless otherwise indicated</i>	<b>AIDAR Appx.  J §</b>	<b>JCC</b>	<b>Other  Policy</b>
<p>spouse's or same-sex domestic partner's government health or life insurance policy is ineligible for the contribution described in this sub-section.</p> <ul style="list-style-type: none"> <li>- Under <a href="#">ADS 496</a>, USAID provides health and accident coverage during official travel outside the cooperating country.</li> <li>- For TCNPSCs with an approved ACP, see DCC 28 regarding reimbursements to USAID for insurance payments made to the PSC.</li> </ul>			
<p>Insurance - Worker's Compensation: CCN and TCN PSCs are eligible to receive benefits for injury, disability, or death under FECA because the law is administered by the Department of Labor, not OPM.</p>	12	8	<a href="#">ADS 442</a>
<p><b>TCNPSCs ONLY</b> Insurance - Medevac:</p> <ul style="list-style-type: none"> <li>- The cost of Medevac insurance is a reimbursable expense for TCNPSCs, so any payments the TCNPSC receives from the Medevac insurance provider must be repaid to USAID, up to the maximum amount that USAID paid on the behalf of the USPCSC or authorized dependent. For the TCNPSC to be eligible for reimbursement of the Medevac insurance cost, the TCNPSC must provide the CO proof of Medevac coverage and its actual cost. Medevac insurance information is available at the State Department Web site: <a href="http://travel.state.gov">http://travel.state.gov</a>. See JCC 9 regarding emergency and irregular travel.</li> <li>- For TCNPSCs with an approved ACP, see DCC 28 regarding medical expense payment responsibility</li> </ul>	12	9 21	
<p>Insurance - Professional Liability:</p> <p>Pursuant to <a href="#">ADS 537</a>, CCN and TCN PSCs may be eligible for reimbursement of professional liability insurance, if applicable.</p>	--	--	<a href="#">ADS 537</a>

<b>DESCRIPTION</b> <i>Applies to CCN &amp; TCN PSCs under  <b>AIDAR Appendix J</b> unless otherwise indicated</i>	<b>AIDAR Appx.  J §</b>	<b>JCC</b>	<b>Other  Policy</b>
Allowances	12	13	
Physical Exams:  For TCNPSCs with an approved ACP, see DCC 3. <ul style="list-style-type: none"> <li>- Prior to providing clearance for an overseas assignment of 30 days or more, STATE/MED may require additional tests in addition to those included in the basic exam. Such additional tests will be reimbursed at 100% of the cost to the TCNPSC, minus any costs paid by the TCNPSC's, or their spouse's, insurance company. For such pre-contract expenses, the CO must ensure sufficient funds are included in the budget and are properly obligated.</li> <li>- The CO must not execute a contract with a TCNPSC or issue travel orders for travel of 30 days or more without first obtaining the proper medical clearance (see <a href="#">ADS 309mac, Medical Clearance Processes for USPSCs and Excepted TCNPSCs</a>).</li> </ul>	12	3	
Leave and Holidays: <ul style="list-style-type: none"> <li>- For TCNPSCs with an approved ACP, see DCC 5 and AAPD 15-02.</li> </ul>	12	6	
Travel & Transport Expenses:  For TCNPSCs with an approved ACP, note: <ul style="list-style-type: none"> <li>- JCC 9 applies, but TCNPSCs at qualifying posts are eligible for country leave as stated in DCC 5.</li> <li>- See also DCC 28 for costs associated with emergency and irregular travel.</li> </ul>	12	9	
Training:  All training applications will be processed on a case-by-case basis and must be approved by the CCN or TCN PSC's Supervisor in accordance with Mission policy.	4(c)(4) 12	20	<a href="#">ADS 458</a>
Retirement and Former U.S. Government Employees	4(c)(2)(vii)	--	

<b>DESCRIPTION</b> <i>Applies to CCN &amp; TCN PSCs under AIDAR Appendix J unless otherwise indicated</i>	<b>AIDAR Appx. J §</b>	<b>JCC</b>	<b>Other Policy</b>
Workweek and Premium Pay	12	5	
Incentive Awards: - See <a href="#">ADS 309mab, Incentive Awards for Personal Services Contracts with Individuals.</a> - The Requestor and CO must not budget for monetary awards because such awards cannot, and must not, be pre-determined or expected under a PSC. See <b>309.3.3.4</b> and <b>309.3.3.12</b> regarding budgeting and tracking monetary awards as a PSC cost,	4(c)(3) 12	19	<a href="#">AAPD 16-03</a>
Compensation Currency	4(c)(2)(iv)	--	

**309.3.3.4 Position Budget**

Effective Date: 06/15/2016

In consultation with the CO, the Requestor must prepare a comprehensive budget of all associated CCN or TCN PSC costs based on the CO-approved market value salary range and appropriate benefits in accordance with **309.3.3.2** and **309.3.3.3**. Within the comprehensive budget, the Requestor must include the sub-set of line items that will become the contract budget as described below.

- a. **Comprehensive Budget.** The comprehensive budget is the Requestor's estimate of all costs associated with the individual CCN or TCN PSC action. This budget must include amounts paid directly to the CCN or TCN PSC such as salary and benefits. It must also include other costs not paid directly to the PSC (e.g. ICASS; housing/lease agreements that only apply to TCNPSCs).
- b. **Contract Budget.** The Requestor must prepare a proposed contract budget, which is a sub-set of the comprehensive budget. In the contract budget, the Requestor must list only those line items paid directly to the CCN or TCN PSC or any employer contributions that may apply. The Requestor's proposed contract budget may include the following illustrative sub-set of line items.

<b>Basic Category</b>	<b>Illustrative Line Items</b>
Compensation:	
	Salary
	Overtime
	Holiday Pay
	Other Premium Compensation
Other Reimbursable Costs:	
	(insert as applicable)
Reimbursement of Precontract Costs:	



Basic Category	Illustrative Line Items
	<i>(insert as applicable)</i>
Employer Contributions (paid on the PSC's behalf)	
	<i>(insert as applicable)</i>

- c. Salary. This line must reflect an estimated salary based on the approved classification and the LCP grade established under **309.3.3.2**.
- d. Monetary Awards. The Requestor and CO must not include monetary awards as a line item in any budget for a position in accordance with **309.3.3.3**. Monetary awards must instead be tracked by contract modification as indicated in **309.3.3.12**.
- e. Subcontracts, "Miscellaneous", or "Contingency" Costs. All such costs and line items are prohibited (see **309.3.1(d)**).

### **309.3.3.5 Publicizing and Competition Requirements**

Effective Date: 06/15/2016

- a. For guidance on using the applicable regulations, see [ADS 309saa, Guide to PSC Publicizing and Competition Regulations](#) and [ADS 309mad, Class Deviation and Class J&A for Other Than Full and Open Competition](#).
- b. Publicizing. The CO must comply with [FAR Part 5, AIDAR Appendix J, sec. 5\(b\)](#), and other FAR and AIDAR requirements referenced therein. Only after the CO has publicized the solicitation in accordance with FAR Part 5 and AIDAR Appendix J, the requesting office may place paid advertisements in other media such as newspapers and periodicals, and use other publication methods in consultation with the CO.
- c. Competition. The CO must comply with [FAR Part 6, AIDAR Appendix J, sec. 5\(c\)](#), and other FAR and AIDAR requirements referenced therein.

### **309.3.3.6 Position Requisition**

Effective Date: 06/15/2016

- a. To initiate the solicitation process, the Requestor must submit a complete Requisition package to the CO.
- b. Funding. When creating the Requisition, the Requestor must ensure the total estimated cost (TEC) information corresponds to the contract budget figure. The Requestor must use a "Commitment Amount" based on available funding at the time the Requisition is created, and comply with the forward funding requirements in [ADS 621](#). This amount must be within the TEC of the contract budget. Although the contract budget is the basis for funding the Requisition, the Requestor must submit the comprehensive budget, including the sub-set contract budget, with the Requisition Supporting Documents as indicated below (see **309.3.3.4.a** and **b**, and forward funding requirements in [ADS 602](#) and [ADS 603](#)).



- c. **Supporting Documents.** The Requestor must submit the following supporting documents with the Requisition, only for use by the Requestor and the CO:

<b>REQUISITION SUPPORTING DOCUMENTS</b>	<b>ADS309.3.3.</b>
• Position Description	<b>1</b>
1. Statement of Duties	
2. Minimum Qualifications	
3. Evaluation Factors	
• Position Classification with all approvals	<b>2</b>
• (TCNPSCs ONLY if applicable) HCTM Approval	<b>2</b>
• Comprehensive Budget for the Position	<b>2, 3, 4</b>
• J&A Memo for any exception to competition	<b>5</b>
• Other Special Requirements of the position	

- d. The CO must indicate a start date to initiate the PALT only after receiving and accepting a complete and approved Requisition appropriate for the specific PSC action.
- e. **Alternate Procedures.** If use of the GS-equivalent scale is approved in accordance [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#), the Requisition, Solicitation, and Award must be processed through GLAAS. The CO must follow the GLAAS business processes. See the [M/OAA Web site](#). For steps to initiate an action in such cases, see the USPSC procedures in **309.3.2.6** (see also **309.3.3.7** and **309.3.3.11**).

### **309.3.3.7 Preparing the Solicitation**

Effective Date: 06/15/2016

- a. The CO must adhere to PALT policies under [ADS 300](#).
- b. The CO must prepare the solicitation using the guidance and format included in the [CCN and TCN PSC Solicitation Template](#).
- c. **Competitive Range.** If the CO decides to establish a competitive range of candidates, as part of the selection process, the CO must state so in the solicitation, describing how the competitive range will be established and how negotiations will be conducted with qualified candidates.
- d. **Solicitation in GLAAS.** As indicated in **309.3.3.6**, if the position was classified under the ACP and is required to be processed in GLAAS, the CO must prepare the solicitation in accordance with the GLAAS business processes.
- e. **Alternate Procedures.** If use of the GS-scale is approved in accordance with [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#), the CO must publicize the solicitation on [www.fedbizopps.gov](http://www.fedbizopps.gov) to satisfy the full and open competition requirements of [FAR Parts 5](#) and [6](#), and [AIDAR Part 706](#),

as also referenced in **309.3.3.5**. The CO must comply with order of hiring preference requirements in [ADS 495](#) and **309.3.3**.

### **309.3.3.8 Technical Evaluation of Applications**

Effective Date: 06/15/2016

#### **a. Technical Evaluation**

##### **(1) Establishing the Technical Evaluation Committee**

- i. The CO, in consultation with the requesting office, must establish the TEC, including a TEC Chair, who will review and evaluate the applications. The CO must approve the TEC members and evaluation process in accordance with [FAR 15.303\(b\)\(1\)](#) and follow the same standards and procedures for the composition of TECs as specified in [ADS 302.3.6.1](#).
- ii. Prior to initiating the technical evaluation process, the CO or CO's designee must obtain signed non-disclosure and conflict of interest certifications from all TEC members.

**(2) Evaluation Criteria.** The TEC must evaluate applications based on the criteria stipulated in the solicitation.

**(3) Ranking.** The Requestor must collaborate with the CO to determine the basis for ranking applicants relative to the evaluation criteria.

**(4) Competitive Range.** If the solicitation indicated the CO might establish a competitive range, then the TEC must create a ranking of the most highly rated and technically qualified applicants based on the evaluation criteria, which the CO may use in the source selection process. The CO must determine the cut-off point in the ranking to establish the competitive range.

**(5) Interviews.** The TEC may conduct interviews of the most highly rated applicants before making a selection recommendation to the CO. If the CO established a competitive range and the TEC elected to conduct interviews, the TEC must interview all individuals within the competitive range.

**(6) Reference Checks.** Before a final candidate is selected for the position, the CO may direct the TEC must perform professional reference checks based on the candidate's application and other relevant sources. The CO, in consultation with the TEC, will decide at what stage such reference checks will be conducted.

#### **b. Selection Memorandum**

- (1) At the end of the evaluation process, the TEC Chair must submit the Selection Memorandum, including all supporting documentation (i.e. notes, applications, score sheets) to the CO. As the Source Selection Authority, the CO may consider the TEC's evaluation and recommendation in making a source selection decision based on the CO's independent judgment in accordance with [FAR 15.308](#).

(2) The Selection Memorandum must:

- i. Serve as a stand-alone document describing the evaluation process from solicitation to evaluation completion, and recommendation of the selected candidate(s).
- ii. Detail the methodology used to review, score, and rank the applications against the criteria stated in the solicitation.
- iii. If a competitive range was established, the TEC must support and justify selection of the "most highly rated applicants."
- iv. Explain to the CO why the candidate selected by the TEC is recommended for award compared to the other candidates based on the evaluation criteria stated in the solicitation.
- v. Include all TEC members' signatures or other evidence of agreement or clearance.

**c. Debriefing**

It is USAID policy to conduct debriefings upon request from PSC applicants. The CO must follow the procedures outlined in [FAR 15.5](#), as applicable, when responding to requests for debriefing.

**309.3.3.9 Award Negotiation**

Effective Date: 06/15/2016

**a. General**

Negotiating a personal services contract with an individual is significantly different from negotiating a contract with an organization (see [AIDAR Appendix J section 6](#)).

**b. Developing the Negotiation Strategy**

- (1) Before initiating negotiations with the selected candidate, the CO must use the candidate's current earnings history, education, experience and other qualifications, as certified in the required application form, to determine a fair and reasonable base salary within the range specified in the solicitation.

“Current earnings” are defined as actual earnings for work reasonably related to the position for which the applicant is being considered.

“Base salary” is defined as compensation for services rendered, excluding bonuses, profit-sharing arrangements, commissions, consultant fees, extra or overtime work payments, foreign differential or quarters, cost of living or dependent education and other such allowances.

- (2) No salary history. If the selected candidate does not have a current salary history (e.g., absence from the workforce for many years), or the candidate’s salary history does not accurately reflect the current market value (e.g. Doctors without Borders volunteer), the CO must determine a fair and reasonable base salary to be offered to the selected candidate based on a comparison of the salary range in the solicitation with the candidate’s qualifications, experience, and the extent to which the individual meets the solicitation requirements.

### **c. Salary Negotiations**

The CO must negotiate and award final salaries based on the guidance in this section. The CO may decide how to initiate salary negotiations, whether by email or other correspondence. However, at the completion of any negotiations, the CO must execute a final “offer letter,” signed by the CO and the selected candidate, indicating the negotiated salary, proposed start date for work, and other relevant information and documentation required to execute the contract (see **309.3.3.10**).

#### **(1) Negotiations within the Solicitation Market Value**

- i. The CO must make an offer, conduct negotiations, and make the award to the selected candidate at a fair and reasonable salary within the solicitation market value, regardless of whether the candidate’s salary history is below or above the market value in the solicitation.
- ii. If the CO and the selected candidate cannot agree on a salary within the solicitation market value, the CO may begin discussions with the next highly rated candidate based on the TEC’s recommendations. If no ranking of candidates was provided in the selection memo, the CO must consult with the TEC to determine the next best technically qualified applicant.
- iii. If the CO is successful in negotiating a base salary and makes an award to one of the qualified candidates, the CO must document in the negotiation memorandum the basis for determining that the final negotiated salary is fair and reasonable (e.g. based on the candidate’s salary history and qualifications).

## **(2) Applicable Procedures for Market Value Reassessment**

- i. It is USAID's policy that COs must not negotiate above the market value for a CCN or TCN PSC position.
- ii. In no case will the selected candidate's salary history be the determining factor for negotiating a salary in excess of the advertised market value of the position. However, if the salaries of all the highly rated candidates are above the solicitation market value, and the CO was unsuccessful in negotiating an award within the solicitation market value, then the CO must review the position classification used for the solicitation and follow these procedures:

**(a)** If the CO determines that the classification was appropriate for the position as solicited, then the CO has two options:

**(1)** Issue an amendment to re-open the solicitation and extend the closing date. The CO must specifically provide the amendment to those individuals who submitted applications on or before the original solicitation closing date; or

**(2)** Cancel the solicitation and re-solicit for the position by issuing a new solicitation.

**(b)** If the CO determines the position classification was not appropriate for the position as solicited, then the CO must cancel the solicitation, require a new requisition from the requesting office, revise the classification, and re-solicit for the position by issuing a new solicitation.

**(3) Finalizing the Negotiated Salary.** When the CO and selected candidate have agreed on the base salary amount, LCP-grade and step, the CO must formalize this information in the final offer letter and execute the contract accordingly.

### **309.3.3.10 Pre-Award Documentation**

Effective Date: 06/15/2016

#### **a. General**

The CO must not execute any personal services contract award unless and until the CO obtains all the pre-award forms and clearances necessary for the specific PSC. The CO must ensure the contract file includes all the following information and documentation at a minimum before a personal services contract is executed (see **309.3.1.g** on file documentation guidance in ASIST).

ITEM	DOCUMENT(S)	ADS 309.3.3.10.a	AIDAR JCC	Other Policy
Offer Letter	Letter	(1)	--	
Personnel Security / Facility Access	As required by the RSO	(2)	4	
Medical Clearances and Certifications	Copies of medical opinions For TCNPSCs with an approved ACP, see DCC 3: DS-6561; DS-3057; other forms as required by the Mission	(3)	3	<a href="#">ADS 508</a>
Other Requirements	Varies by PSC; For TCNPSCs with an approved ACP: HCTM prior approval	(4)	--	
Negotiation Memo with Responsibility Determination	Varies by PSC screenshots of SAM and OFAC searches	(5)	--	

**(1) Offer Letter.** As indicated in **309.3.3.9.c**, the CO must obtain the executed “offer letter” indicating the final negotiated salary, proposed start date for work, and other information and documentation relevant to the impending contract in accordance with this section. An “offer letter” does not constitute a commitment by USAID that an award will be executed. The CO must not execute an award until all required clearances have been obtained. Any precontract costs must be authorized by the CO (see [FAR 31.205-32](#) and **309.3.3.4**).

**(2) Personnel Security/Facilities Access.**

**(a)** Only U.S. citizens are eligible for security clearance. Non-U.S. citizens and any positions that will not require access to national security information, but are limited to administratively controlled "Sensitive But Unclassified" information will be granted "Facilities Access" (additional information is available from the Regional Security Officer (RSO)).

**(b) Temporary Facilities Access.** The CO must consult with the RSO regarding authorization for temporary facilities access.

**(3) Medical Clearances and Certifications.**

**(a)** As part of the Medical Clearance process, the CO is reminded to review USAID’s benefits, as well as the PSC’s obligations, for health and other insurance as described in **309.3.3.3** and the corresponding JCCs.

(b) The CO must provide administrative approval of the PSC's reimbursement voucher request for required exams and immunizations prior to payment by the relevant payment office.

(c) TCNPSCs ONLY with an approved ACP (see [ADS 309mac, Medical Clearance Processes for USPSCs and Excepted TCNPSCs](#)).

**(4) Other Required Documents.**

(a) HCTM, Missions, the host country, and/or requesting offices may require other documentation before award based on the specific PSC position.

(b) TCNPSCs ONLY – HCTM Prior Approval. As explained in **309.3.3.2**, if the Requestor was required to obtain HCTM prior approval for a TCNPSC position, the CO must receive a copy of that approval before award.

**(5) Negotiation Memorandum with Responsibility Determination.** The CO must fully document the procurement action process, including a determination that the contractor is responsible and eligible for award. In accordance with **309.3.1.f**, the CO must search the OFAC list at <http://www.treas.gov/offices/enforcement/ofac/sdn>, and the excluded parties list at [www.sam.gov](http://www.sam.gov), and include screenshots of each in the contract file. Additional guidance is available in ASIST (see **309.3.1.g**).

**b. System for Award Management (SAM).** In accordance with [FAR 4.1102\(a\)\(4\)](#), contracts with individuals for performance outside the U.S. and its outlying areas are not required to be registered in SAM (see **309.3.1.f**).

**309.3.3.11 Contract Award and Documentation**

Effective Date: 06/15/2016

a. In accordance with the [AIDAR](#), the CO may award a CCN or TCN PSC, provided that the amount of the contract does not exceed their warranted or delegated contracting authority.

b. After obtaining all pre-award documentation necessary under **309.3.3.10**, the CO must prepare the award document before executing the contract.

(1) The CO must prepare the award using the guidance and format included in the [CCN and TCN PSCs Award Template](#);

(2) The contract award budget must only include those line items paid directly to the contractor or any employer contributions as indicated in **309.3.3.4**; and

(3) The contract must include the appropriate JCCs in accordance with [AIDAR Appendix J](#) and [FAR](#) clauses by reference from the [CCN and TCN Award Template](#), available only internally for USAID staff.

- c. To fully execute the contract, the PSC contract award must be signed by the PSC before it is counter-signed by the CO.
- d. **Additional Post Award Documentation.** The CO must ensure the contract file includes all the following information and documentation at a minimum after execution of a personal services contract (see **309.3.1.g** on file documentation guidance in ASIST).

ITEM	DOCUMENT(S)	ADS 309.3.3.11.a.	AIDAR JCC	Other Policy
<b>TCSNPSCs ONLY:</b> Insurance - Health and Medevac	Insurance certificates	(1)	8 21	
Financial Disclosure	OGE-450; OGE-278	(2)	2	
Withholdings	Varies by Mission	(3)	7	<a href="#">ADS 508</a>
Emergency Locator	Record on file	(4)	--	
Transportation	Travel Authorization	(5)	9	
Training	Varies by PSC	(6)	20	
Award Checklist	See ASIST guidance	(7)	--	

**(1) TCNPSC Medevac Insurance.** The CO must obtain health and medevac insurance certificates. The CO must e-mail the certificates to the relevant Health Unit at post. The CO must also provide administrative approval for insurance reimbursement vouchers prior to payment by the relevant payment office.

**(2) Financial Disclosure.** Financial Disclosure and Ethics Code. Certain CCN and TCN PSCs must file either the OGE-450 Confidential, as required by statute (the [Ethics in Government Act of 1978](#), [5 USC app. 101 et seq.](#), and [5 CFR 2634](#)). The CO is required, in consultation as necessary with their cognizant RLO or GC/EA to:

- (a)** Review each PSC using legal criteria to determine if a filing requirement applies;
- (b)** Distribute the correct form on or before the contract start date if the CCN or TCN PSC is required to file a financial disclosure report. CO or filer's questions, if any, can be referred to the cognizant RLO or GC/EA; and
- (c)** Enter an Ethics Code in the appropriate block of the current PSC award Cover Page form: either "N" = files no form; "C" = files the Confidential form; or "P" = files the Public form.



- (3) Withholdings.** The CO must obtain any forms necessary for salary withholding deductions in accordance with the laws and Mission policies applicable to the cooperating country (see JCC 7).
- (4) Emergency Locator Contact(s).** The CO must obtain the names, addresses, and telephone numbers of at least two persons who may be notified in the event of an emergency.
- (5) Transportation of Personal Property.** For TCNPSCs, the EXO office will prepare the travel authorization for the transportation of personal effects in coordination with Bureau for Management, Management Services, Travel and Transportation Division (M/MS/TTD) as necessary (see JCC 9).
- (6) Training.** If applicable, forms, certifications, or other documentation may be required before award in accordance with the JCC 20.
- (7) Award Checklist.** The CO must prepare a list of required documentation for each specific PSC based on **309.3.3.10**, this section **309.3.3.11(d)**, and ASIST guidance under **309.3.1.g**.

**e. Alternate Procedures.**

- (1)** If alternate classification procedures were used, the CO's contract file must include the Mission Director approved/signed ACP attached to the approved position classification. The CO must also include the salary, benefits, and allowances in the award based on the approved ACP, and document the Negotiation Memorandum accordingly (see [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#)).
- (2)** Award in GLAAS. As indicated in **309.3.3.6**, if the position is required to be processed in GLAAS, the CO must prepare the award in accordance with the GLAAS business processes.

**309.3.3.12 Contract Modifications**

Effective Date: 06/15/2016

- a. Form.** The CO must comply with [FAR 43.301](#) regarding the use of [Standard Form 30, Amendment of Solicitation/Modification of Contract \(SF-30\)](#) to execute PSC modifications.
- b. Limitations.** The CO may execute unilateral modifications for incremental funding, or other administrative changes (see **309.3.1.d** regarding limitations on PSC modifications).
- c. Monetary Awards.** If a monetary award is made in accordance with **309.3.3.3**, this cost must not be funded under the contract. However, the CO must process an administrative modification without any funding obligation to indicate the amount of

this compensation expense paid directly to the PSC for cost tracking purposes (see Article III of the [CCN and TCN PSC Award Template](#)).

- d. **FOR CCNPSCs - Recruited for Iraq and Afghanistan Assignments.** The procedures for a CO to modify CCN PSCs for TDY assignments to Iraq and Afghanistan must be in accordance with the [AAPD 03-11 CCNPSC TDYs to Iraq and Afghanistan](#).

## **309.4 MANDATORY REFERENCES**

### **309.4.1 External Mandatory References**

Effective Date: 06/15/2016

- a. [Department of State Standardized Regulations \(DSSR\)](#)
- b. [Federal Acquisition Regulation \(FAR\)](#)
- c. [Federal Employees' Compensation Act \(FECA\)](#)
- d. [Foreign Affairs Manual \(FAM\)](#)
- e. [Foreign Assistance Act of 1961 \(FAA\), sections 635\(b\), 635\(h\), and 636\(a\)\(3\)](#)
- f. [Foreign Service Act of 1980 \(FSA\), section 408\(a\)\(1\)](#)

### **309.4.2 Internal Mandatory References**

Effective Date: 06/15/2016

- a. [Acquisition and Assistance Policy Directives \(AAPDs\)/Contract Information Bulletins \(CIBs\)](#)
- b. [ADS 103, Delegations of Authority](#)
- c. [ADS 109, Ethics and Standards of Conduct](#)
- d. [ADS 201, Program Cycle Operational Policy](#)
- e. [ADS 300, Agency Acquisition and Assistance \(A&A\) Planning](#)
- f. [ADS 302, USAID Direct Contracting](#)
- g. [ADS 309maa, Requesting Approval to Use Alternate Classification Procedures \(ACP\)](#)
- h. [ADS 309mab, Incentive Awards for Personal Services Contracts with Individuals](#)

- i. [ADS 309mac, Medical Clearance Processes for USPSCs and Excepted TCNPSCs](#)
- j. [ADS 309mad, Class Deviation and Class Justification for Other Than Full and Open Competition](#)
- k. [ADS 309mae, Position Description Instructions for USPSCs](#)
- l. [ADS 309maf, Requesting Approval to Negotiate a USPSC above GS-15 and CST](#)
- m. [ADS 309mag, Position Level Benchmarks for USPSCs](#)
- n. [ADS 309mah, Application of the FAM under Federal and USAID Regulations and Policies on PSCs](#)
- o. [ADS 405, Telework](#)
- p. [ADS 442, The Workers' Compensation Program](#)
- q. [ADS 451, Separations and Exit Clearance](#)
- r. [ADS 458, Training and Career/Professional Development](#)
- s. [ADS 480, Leave](#)
- t. [ADS 495, Foreign Service National Personnel Administration](#)
- u. [ADS 496, FSN Health and Accident Coverage \(HAC\)](#)
- v. [ADS 508, Privacy Program](#)
- w. [ADS 514, Parking Program Administration](#)
- x. [ADS 515, Metro Transit Subsidy Program](#)
- y. [ADS 521, Claims for Losses of Private Personal Property](#)
- z. [ADS 522, Performance of Temporary Duty Travel in the U.S. and Abroad](#)
- aa. [ADS 526, USAID Guest House Services](#)
- ab. [ADS 529, Safety Program](#)
- ac. [ADS 537, Professional Liability Insurance](#)

- ad. [ADS 545, Information Systems Security](#)
- ae. [ADS 565, Physical Security Programs \(Domestic\)](#)
- af. [ADS 566, Personnel Security Investigations and Clearances](#)
- ag. [ADS 568, National Security Information Program](#)
- ah. [ADS 569, Counterintelligence and Insider Threat Program](#)
- ai. [ADS 602, Forward Funding, Program Funds](#)
- aj. [ADS 603, Forward Funding, Non-Program Funds](#)
- ak. [ADS 621, Obligations](#)
- al. [ADS 625, Accounts Receivable](#)
- am. [ADS 626, Payroll](#)
- an. [ADS 627, Local Currency Trust Funds](#)
- ao. [ADS 637, U.S. Personal Services Contractors 401\(k\) Defined Contribution Pension Plan](#)
- ap. [AIDAR](#)
- aq. [CCN and TCN PSC Award Template](#)
- ar. [CCN and TCN PSC Solicitation Template](#)
- as. [USPSC Award Template](#)
- at. [USPSC Solicitation Template](#)

**309.5        ADDITIONAL HELP**  
Effective Date: 06/15/2016

- a. [ADS 302sat, Guidance on Closeout Procedures for A&A Awards](#)
- b. [ADS 302sav, Contracting Officer's Role in Debt Collection](#)
- c. [ADS 309saa, Guide to PSC Publicizing and Competition Regulations](#)
- d. [Procurement Executive Bulletins \(PEBs\)](#)

**309.6****DEFINITIONS**

Effective Date: 06/15/2016

See the [ADS Glossary](#) for all ADS terms and definitions.

**abroad**

See section 1, [AIDAR Appendix D](#). (Chapter 309)

**Contracting Officer (CO)**

A person representing the U.S. Government through the exercise of his or her delegated authority to enter into, administer, and terminate contracts and make related determinations and findings. This authority is delegated by one of two methods: to the individual by means of a "Certificate of Appointment", SF 1402, as prescribed in [FAR 1.603-3](#), including any limitations on the scope of authority to be exercised, or to the head of each contracting activity (as defined in [AIDAR 702.170](#)), as specified in [AIDAR 701.601](#). (Chapter 309)

**Cooperating Country National Personal Services Contractor (CCNPSC)**

A "Cooperating Country National" or "CCN," also called a Foreign Service National or "FSN," is an individual who is a cooperating country (host country) citizen, or a non-cooperating country citizen lawfully admitted for permanent residence in the cooperating country. See [AIDAR Appendix J, section 1](#). (Chapter 309)

**Dependent of a USPSC**

- (1) Spouse or same-sex domestic partner.
- (2) Children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.
- (3) Parents (including step and legally adoptive parents) of the employee or of the spouse or same-sex domestic partner, when such parents are at least 51 percent dependent on the contractor for support.
- (4) Sisters and brothers (including step or adoptive sisters or brothers) of the contractor, or of the spouse, or same-sex domestic partner, when such sisters and brothers are at least 51 percent dependent on the contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

Dependent of a CCN/TCN PSC paid under the local compensation plan:

Spouse and children (including step and adopted children) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support.

Dependent of a TCN PSC compensated under Appendix D:

Spouse, same sex domestic partner, and children (including step and adopted children, and children of same sex domestic partners) who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support. (Chapter 309)

**employer-employee relationship**

See section 1 in both [AIDAR Appendix D and J](#). (Chapter 309)

### **Foreign Service National Personal Services Contractor (FSNPSC)**

See “Cooperating Country National Personal Services Contractor (CCNPSC)”

### **non-personal services contract**

See section 1 in both [AIDAR Appendix D and J](#). (Chapter 309)

### **personal services contract (PSC)**

A contract that, by its express terms or as administered, make the contractor personnel appear, in effect, Government employees (see [FAR 37.104](#)). See [section 1 in both AIDAR Appendix D and J](#). (Chapter 309)

### **PSC’s Supervisor**

The individual who provides relatively continuous supervision and control of the contractor’s performance in accordance with [FAR 37.104](#), and who supports the CO in contract administration. The PSC Supervisor is not a Contracting Officer’s Representative (COR) as defined in [FAR 1.604](#). (Chapter 309)

### **resident hire USPSC**

See section 1 in [AIDAR Appendix D](#). (Chapter 309)

### **Third Country National Personal Services Contractor (TCNPSC)**

A TCNPSC is an individual who (a) is neither a citizen nor a permanent legal resident alien of the U.S., or of the cooperating country to which the individual may be contracted for duty; and (b) is brought into the cooperating country either at US Government expense, or as an obligation of another employer, for purposes of the contract, and who is eligible for return to their home country or country of recruitment at U.S. Government expense (often called “repatriation”).

Individuals lawfully admitted for permanent residence in the cooperating country and recruited locally for work in a USAID Mission, are considered “CCNs”, not TCNs. Such individuals are not entitled to an offshore hire benefits package, and therefore repatriation travel or other related contract terms are not authorized. See also [section 1 in AIDAR Appendix J](#), and also the definition for CCNPSC in this chapter. (Chapter 309)

### **U.S. Personal Service Contractor (USPSC)**

A U.S. citizen or a U.S. resident alien hired under a contract for personal services that, by its terms or as administered, makes the contractor personnel appear to be a U.S. government employee. (Chapter 309)

### **U.S. resident alien**

See section 1 in [AIDAR Appendix D](#). (Chapter 309)

### **Washington-Based USPSCs**

US citizens or resident aliens recruited from within the U.S. for positions in Washington, DC. (Chapter 309)

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